



To: All CDBG-DR Homeowner Assistance Project Grant  
Agreement Subrecipients and Contractors

From: Texas General Land Office

Date: November 7, 2012

Re: Round 2 Homeowner Assistance Sub-Program  
Forms of Assistance and Inspection Issues

This is a Technical Guidance Letter ("TGL"), as defined in Section 1.04 of all Round 2 grant agreements ("Contract") between the Texas General Land Office ("GLO") as administrator of the U.S. Department of Housing and Urban Development's Community Development Block Grant Disaster Recovery program ("Program") and Program Subrecipients ("the Round 2 Contracts").

As stated in Section 1.04, a TGL is an instruction, clarification or interpretation of Program requirements, issued by the GLO, to which specified Program participants are subject. This TGL is addressed to all Subrecipients and contractors ("Providers" or "Contractors", as applicable) participating in the Program's Homeowner Assistance sub-program.

The Homeowner Assistance sub-program generally provides Program funds for eligible owner/occupiers to rehabilitate, reconstruct, and in limited circumstances demolish and newly construct single-family homes damaged by Hurricanes Ike or Dolly. The sub-program's outline is described in Attachment A of the Community Development Block Grant Disaster Recovery Program Hurricanes Ike and Dolly Round 2 Housing Guidelines ("the Housing Guidelines"), developed by the Texas Department of Housing & Community Affairs ("TDHCA") and now administered by the GLO.

Evolution of the Homeowner Assistance sub-program, field experience, and comment from program participants have made it advisable for the GLO to clarify the inspection issue addressed below. They have also led to revision of housing rehabilitation or reconstruction special conditions in the Round 2 Contracts, likewise addressed below. The purpose of this TGL is accordingly to set forth, and to inform all affected housing subrecipients and contractors of, the inspection clarification and rehabilitation or reconstruction revision.

## **1. Inspection Clarification**

Attachment A, section IX(c) of the Housing Guidelines requires that construction under the Homeowner Assistance sub-program meet the following criteria:

Housing that is constructed or rehabilitated with CDBG funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. International Residential Code (IRC) (with windstorm provisions)...will be used as required and as appropriate.

Consequently, the Round 2 Contracts of Subrecipients participating in the Homeowner Assistance sub-program contain an Attachment A Performance Statement with the following language:

Subrecipient shall conduct inspections on all Housing Units as follows: (1) foundation, including elevation certification when building in a floodplain; (2) rough-in (mechanical, plumbing, and electrical); (3) structural; (4) insulation; and (5) a final inspection; to meet the International Residential Code 2009, or the Local, County, State, or Federal Code whichever is most stringent.

In other words, the Round 2 Contracts require subrecipients to inspect homes constructed, reconstructed, or rehabilitated with Program funds to ensure that they satisfy the standards set forth in the Housing Guidelines, including International Residential Code 2009 when it is the most stringent applicable building code.

In order to facilitate the required inspections, the GLO promulgated documents for use in the inspection process: Form 11.10 – Progress Inspection, and Form 11.03 – Final Housing Inspection. The inspector certifications stated in these forms, however, formerly referred to “minimum...standards” for construction, rather than to the most stringent applicable standard, including the International Residential Code 2009, as required by the Round 2 Contracts.

The GLO has now corrected Form 11.10 and Form 11.03 to conform to the contractual language. Subrecipients and Contractors are hereby informed that they must use the corrected forms in the inspection process, absent written waiver from the GLO in accordance with the Housing Guidelines. The corrected forms may be found on the GLO’s web site at:

<http://www.glo.texas.gov/GLO/disaster-recovery/forms/housing-forms-publications.html>

## **2. Forms of Assistance Round 2 Contracts Revision**

The Round 2 Contracts currently require that Subrecipients participating in the Homeowner Assistance sub-program provide rehabilitation, reconstruction, and new construction assistance to eligible owner/occupiers in the form of a five-year, zero-interest deferred payment loan, evidenced by a promissory note and secured by a properly-perfected and recorded deed of trust. The GLO has decided to shorten the loan term and to eliminate the security requirement, as reflected in the following language of Housing Guidelines Attachment A, section VIII(A):

Single Family Homeowner assistance shall be provided in the form of an Unsecured Deferred Forgivable Note (Note). The Note (Form 13.09) may be found under Homeowner Assistance at:

<http://www.tdhca.state.tx.us/cdbg/ike-and-Dolly/forms/index.htm>.

Reflecting the transfer of Program administration from TDHCA to the GLO, Form 13.09 now appears at:

<http://www.glo.texas.gov/GLO/disaster-recovery/forms/housing-forms-publications.html>

The Round 2 Contracts thus require revision to conform to the Housing Guidelines. Consequently, in accordance with Article 8 of the Round 2 Contracts, the GLO hereby waives and deletes in full the Attachment F Special Condition E entitled "Housing Rehabilitation Assistance Program Guidelines" contained in all Round 2 Contracts of Subrecipients participating in the Homeowner Assistance sub-program. In place of the waived and deleted language there is substituted the following new special condition E:

**E HOUSING REHABILITATION ASSISTANCE PROGRAM GUIDELINES**

Prior to the selection of program recipients, Subrecipient shall provide a copy of its proposed housing rehabilitation assistance program guidelines for GLO review and approval. The guidelines must include provisions for compliance with the Federal Fire Prevention and Control Act of 1974 (which requires that any housing unit rehabilitated with grant funds be protected by a hard-wired or battery-operated smoke detector) and provisions for compliance with 24 CFR Part 35 (HUD lead-based paint regulation).

**HOUSING REHABILITATION OR RECONSTRUCTION ASSISTANCE:**

- (1) The housing rehabilitation or reconstruction assistance provided by Subrecipient for single family owner-occupied units shall be in the form of a three-year deferred payment loan ("DPL"), at zero interest. Provided all terms and conditions under which the assistance was provided continue to be fulfilled, the DPL will be forgiven at a rate of 33 and one-third percent per year, effective on the anniversary date of completion of the Project, evidenced by the date of the Certificate of Final Completion or Final Completion Form.
- (2) The full amount of the assistance provided shall be evidenced by a fully-executed promissory note.
- (3) If the homeowner occupies the home for the full three-year term, the note expires and no repayment is required, nor will any conditions be imposed relative to the disposition of the property. Unless otherwise permitted by the GLO, if any of the terms and conditions under which the assistance was provided are breached, or if

the property is sold, leased, transferred or vacated by the homeowner for any consecutive thirty-day period during the three-year loan term, the repayment provisions of the promissory note shall be enforced.

- (4) Notwithstanding the previous paragraph (3), if, during the three-year loan term, the homeowner vacates the unit for any consecutive thirty-day period, the locality may, as evidenced by city council or commissioner court action, forgive the remaining loan balance. Prior to forgiveness of all or any portion of the assistance provided, the request for forgiveness must be approved by the local governing body and be based on documented and justifiable conditions or circumstances that would result in an unnecessary hardship to the homeowner and the determination that the national objective of benefiting low to moderate-income persons was met.
- (5) The national objective will be considered met only when the local governing body determines that a low to moderate-income person has occupied the rehabilitated or reconstructed home for a time sufficient to meet the national objective. Subrecipient is liable for repayment of an amount equal to the difference in the appraised value of the home prior to reconstruction and the sales price when the home is sold during the term of the three-year forgivable loan, if the national objective was not achieved.
- (6) If the property is sold or transferred to a person other than an eligible LMI person, the remaining pro-rated balance of the DPL must be repaid by the Subrecipient from the sales proceeds. Notwithstanding the preceding, Subrecipient shall be held liable for any balance remaining over and above the sales proceeds.
- (7) In instances where another occupant proposes to occupy a previously-assisted unit, the locality must document that the new applicant is income eligible and has been informed of the terms and conditions under which the assistance was provided. The new homeowner(s) must acknowledge, in writing, that they have been informed of these terms and conditions and that they are subject to all of the provisions for the full remaining term of the DPL.

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Please refer any questions or concerns regarding this TGL to:

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Sincerely,

A handwritten signature in blue ink, appearing to read 'Jorge Ramirez', with a stylized, flowing script.

Jorge Ramirez  
CDBG-DR Program Director